

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
High Cost Universal Service Support)	WC Docket No. 05-337
)	
Coalition for Equity in Switching Support)	
Petition for Clarification)	

COMMENTS OF GRANITE STATE TELEPHONE, INC.

Granite State Telephone, Inc. ("GST") hereby submits these comments in response to the Federal Communications Commission's Notice of Proposed Rulemaking ("NPRM") in the above captioned proceeding¹. GST strongly urges the Commission to adopt its proposed modifications to sections 36.125(j)² and 54.301(a)(2)(ii)³. These amendments will ensure that small ILECs receive the appropriate amount of Local Switching Support ("LSS") for the number of access lines they currently serve, not the number they served sometime in the past.

A. Introduction

GST is a family owned telephone company with headquarters in Weare, New Hampshire. The company has been providing telecommunications services continuously since 1877 when a predecessor company, The Chester and Derry Telegraph Company, was first chartered. Since that time, through acquisitions and internal growth, GST has expanded to the point where it now serves four exchanges covering approximately 196 square miles in south-central New Hampshire.

¹ *High Cost Universal Support; Coalition for Equity in Switching Support Petition for Clarification*, WC Docket No. 05-337, Order and Notice of Proposed Rulemaking, FCC 09-89 (rel. October 9, 2009).

² 47 C.F.R. § 36.125(j).

³ 47 C.F.R. § 54.301(a)(2)(ii).

GST has been adversely affected by the one-way ratcheting rule under which a carrier's LSS is determined based on the maximum number of lines it served in the past, not the number of lines it currently serves. GST experienced steady access line growth until 2001 when it served around 10,900 access lines. Since that time, like most ILECs, GST's access lines have declined steadily so that, as of December 31, 2008, it served around 9,400 access lines. Under this rule, whereby the company is required to continue to apply the 2.5 DEM weighting factor applicable to carriers serving between 10,001 and 20,000 lines, GST estimates that it received approximately \$222,000 less in annual LSS in 2008, and will receive approximately \$210,000 less in 2009, than if it had never exceeded the 10,000-line threshold. This amounts to approximately \$2 per line per month in each of these years.

B. Background

The Commission first established the current DEM weighting methodology in 1987 and 1988, with a five-year phase-in period⁴. Under these rules, a carrier's measured interstate DEM was weighted by a factor of 3.0 if the carrier had less than 10,000 access lines, a factor of 2.5 if the carrier had between 10,001 and 20,000 access lines and a factor of 2.0 between 20,001 and 50,000 access lines. In 1997, the Commission, in CC Docket No. 96-45⁵, established the LSS mechanism in the Universal Service Fund to replace the previous practice of collecting the interstate revenue requirements generated by DEM weighting through access charges. At that time, the Commission required that, when a carrier's access lines increased over one of the thresholds noted above, it would be required to apply the lower weighting factor

⁴ MTS and WATS Market Structure, Amendments of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board, CC Docket Nos. 78-72, 80-286 and 86-297, *Report and Order*, 2 FCC Rcd 2639 (1987) (*New Part 36 Order*). MTS and WATS Market Structure, Amendment of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286 and 86-297, *Order on Reconsideration and Supplemental Notice of Proposed Rulemaking*, 3 FCC Rcd 5518 (1988) *Erratum*, 3 FCC Rcd 5413 (1988) (*1988 Order on Reconsideration*).

⁵ Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, FCC 97-157, 12 FCC Rcd 8776 (1997) (*Order*). Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, *Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72*, 13 FCC Rcd 5318 (1998) (*1998 Fourth Reconsideration Order*).

appropriate for the number of access lines then served. Subsequently, in the 2001 Separations Freeze Order⁶, the Commission required that all separations factors be frozen, except for DEM weighting in cases where a carrier's access lines increased beyond one of the thresholds⁷. The Commission did not, however, establish a symmetrical provision that would allow a carrier whose access lines decreased below a threshold to increase its DEM weighting factor to the level appropriate for the number of access lines it then served. In 2006, the Commission extended the separations freeze until June 30, 2009⁸ but again did not address the issue of whether a carrier's DEM weighting factor should be changed if its access lines fell below one of the thresholds. Finally, in 2009, the Commission again extended the separations freeze, until June 30, 2010⁹, without addressing the DEM weighting issue.

C. Although Congressional intent in establishing explicit universal service support mechanisms is clear, the rationale for the asymmetrical application of DEM weighting is not.

The Telecommunications Act of 1996, in adding Section 254 to the Communications Act of 1934, required the Commission to make the universal service support that had previously been implicit in interstate access rates, such as DEM weighting, explicit. In so doing, it required that universal service support be made "specific, predictable and sufficient" to ensure that telecommunications services in high cost areas be reasonably comparable to those available in urban cost areas at reasonably comparable rates.¹⁰

Although the intent of Section 254 is clear, it is unclear how this asymmetrical or one-way ratcheting approach to the application of DEM weighting factors comports with

⁶ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (2001) (*2001 Separations Freeze Order*).

⁷ See 47 C.F.R. 36.125(j).

⁸ *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516 (2006) (*2006 Separations Freeze Extension Order*).

⁹ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket 80-286, Report and Order, FCC 09-44 (rel. May 15, 2009) (*2009 Separations Freeze Extension Order*).

¹⁰ 47 U.S.C 254(b)

Congressional intent. To the best of GST's knowledge, the Commission has never provided a rationale for this asymmetry in any of its orders in CC Docket Nos. 80-286 or 96-45.

At the time these provisions were adopted, decreases in ILEC access lines had been virtually unheard of since the 1930s. As such, neither the Commission nor interested parties may have seen any need to construct a rule that accommodated decreases as well as increases in access lines served. Now, however, due to factors such as the increased penetration of broadband services, decreases in access line counts have become the norm, rather than the exception, for most ILECs. Under these circumstances, it is increasingly unclear how the asymmetrical application of DEM weighting factors serves to further Congress' objectives in establishing explicit and sufficient universal service support mechanisms.

D. One-way ratcheting is not consistent with the original rationale for the establishment for DEM Weighting.

DEM weighting was originally established in recognition of the fact that the local switching cost per customer for small carriers was considerably higher than that for larger carriers. This is due to a variety of factors including the lower discounts on switching equipment provided to smaller carriers, the unavailability of switches scaled to serve very small exchanges and the fact that certain components of switch costs, such as the central processor and mainframe, do not vary directly (i.e., are relatively fixed) in relation to the number of access lines served. The one-way ratcheting rule recognizes that these factors have relatively less impact as the number of access lines served increases but fails to reflect that these factors generally have a greater impact on per customer switching costs as a carrier's customer base decreases (an impact that may be exacerbated because a carrier may have increased its switching investment in the past to accommodate line growth and meet its carrier of last resort obligations). In other words, it is the absolute number of lines served by a carrier that most affect its switching costs per customer, not whether a carrier reached its current access line count through an increase or decrease in access lines.

E. The one-way ratcheting rule is both inequitable and arbitrary insofar as it fails to treat similarly situated carriers the same.

If the Commission fails to eliminate this asymmetry, carriers that have experienced in some instances a very temporary line increase and subsequent access line losses will be denied the ability to apply the DEM weighting factor established for carriers of their size simply because in the past they had exceeded the relevant threshold. As such, similarly situated carriers in terms of access lines served are now required to apply different DEM weighting factors simply because in the past they were differently situated.

Further, while virtually all incumbent local exchange carriers have experienced line losses in recent years, only those carriers with whose access line counts were around one of the DEM weighting thresholds have been affected by the one way ratcheting rule. Thus, while a carrier whose access line count peaked at 11,000 and then declined by 20% to 8,800 would have its DEM weighting factor reduced, a carrier whose access line count peaked at 35,000 and then declined by 20% to 28,000 would experience no change in its DEM weighting factor.

GST believes these results are both inequitable and arbitrary.

F. Resolving this anomaly in the current USF rules will not have a significant effect on the size of the USF nor prejudice any aspect of the comprehensive overhaul of the Universal Service program anticipated in the future.

GST agrees with the Commission that eliminating the one-way ratcheting rule represents a “relatively minor change to an existing rule”¹¹. Adopting the proposed rules will simply correct an anomaly in the existing USF rules which affects relatively few carriers (although its impact on individual carriers can be significant). As such, it will not have any material impact on the overall size of the high cost fund. Further, it will not have any effect on more comprehensive reforms of the Universal Service program that may be implemented in the future.

¹¹ NPRM, paragraph 13.

G. Conclusion

In conclusion, GST strongly urges the Commission to adopt the rule changes proposed in the NPRM as expeditiously as possible to eliminate the inequitable and harmful effects of the existing one-way ratcheting rule.

Respectfully submitted,

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